G. R. S. 59] GPS 15,000—20 12-13

GENERAL AND REVENUE SECRETARIAT.

1903

( Ceased. )

**File No.** 120-03.

**Serial Nos.** 5 8.

**~~Papers Filed.~~**

***Month*** of September 1903

SUBJECT.

Exhumation warrant for the Surrender of Kochappa.

| PREVIOUS REFERENCES. | LATER REFERENCES. |
|---|---|
| | Indexed. N. B. Ramanathan Cocumunicated |

1. J. 112.

1903-04

Confl. 120-03

5

From H. Ramanujaiengar Esqre
District Magistrate
Chitaldrug Dist

To H. V. Nanjundayya Esqre BA, BL
Secretary to the Government
of His Highness the Maharaja
of Mysore - General and Rev.
Departments - Bangalore

Dated 21st July 1903
Despatched
Received

General No. 48
No.

Enclosure No. 3 { 1 Appln
1 Translation
1 Records

Submitting an application together with the record of the case, for the surrender of accused Rachappa residing at Sankliapura of the Sangli State for an offence under Section 380 I.P.C.

Issd 22.7.03.

Despatched

District Magistrate's Office
Chitaldrug District
Dated Chitaldrug 7th July 1903

From

H Rama anniah Esqre
District Magistrate,
Chitaldrug District

To

N V Ranjundayya Esquire M.A, M.L.
Secretary to the Government of
His Highness the Maharaja of Mysore.
General and Revenue Department

Sir,

I have the honor to submit herewith, the record of Enquiry held by the Amildar and 2nd class Magistrate of Chitaldrug into the complaint of one Yallodappa of Jalikatte in the said Taluk alleging that a pair of bullocks valued at about Rs 180 were stolen from his cattle-shed on the night of the 24th June 1902 and were subsequently found at Sinnahi in the Sangli State in the possession of one Rachappa, a resident of Sanklipur in the Sirahatti Taluk while he was offering them for Sale in the Jatra at Sirahatti on or about the 9th May 1903

2 It has been elicited from the evidence recorded by the Magistrate that Complainant

Yalladappa lost 2 of his bullocks on the night of the 24th June 1902, that he gave information of the theft early in the following morning to the Patél of his village and that the latter made a formal report of the occurrence to the Station House Officer at Chitaldrug on the same day, viz, 25th June 1902. The owner of the bullocks succeeded in tracing them to the possession of one Rachappa of Sankleipur who was offering them for Sale in the Cattle-fair held at Sirahatti. The Complainant gave immediate information to the Police of that place who at once Seized the bullocks from the possession of the accused and also arrested him. The Police having required Sureties as to the identity of the bullocks in question, the Complainant Yalladappa went back to his village and took along with him to Sirahatti, Siddappa Patél of Jalikatte and Lingappa and Rudrappa, reputed of the Said place who identified the bullocks as belonging to the Complainant. The Police of Sirahatti seem to have left the bullocks in the possession of the Surety furnished by the accused who was also let on bail.

3 It will thus be seen that there is ample evidence to show that the bullocks which were found in the possession of accused Rachappa were stolen property and that his surrender to the Mysore police is consequently necessary to enable his being put up for trial by a competent Magistrate on the alternative charges of theft or of receiving or retaining stolen property punishable under Section 380 or 411 of the Indian Penal Code.

4. Under these circumstances I beg that the Government may be moved to address the Honorable the British Resident in Mysore to issue a warrant under the Foreign Jurisdiction and Extradition Act, for the surrender of the accused Rachappa to the police Inspector at Harihar along with the bullocks seized from him.

5. An application in the prescribed form is also submitted.

I have the honor to be,
Sir,
your most obedient Servant

F. H. Hadlow
District Magistrate
Chitaldrug District

Cancelled

No. 215

120-27-24-03

OFFICE OF THE GOVT. OF MYSORE.

Dated 24—7—03

*From*

*The General Secretary to the Government of Mysore.*

*To*

*The First Assistant to the Resident in Mysore.*

SIR,

In forwarding copy of letter No. 48 dated 21st July 1903 from the ~~Deputy Commissioner~~ at Magadi Chitaldrug District, as also the records in original (to be obligingly returned when no longer required), in a Criminal Case ~~No. 44 of 1903~~ on the file of the Amildar ~~Commissioner~~ and 2nd Class Magistrate of the Chitaldrug, in which one Rachappa, a Native of Sangli State is charged with the offence of theft or receiving or retaining stolen property punishable under Section 380 or 411 I. P. Code, I am directed to request that an extradition warrant may be issued to the District Magistrate of Dharwar for the surrender of the said accused to the Police Inspector of Harihar at Harihar.

2. The usual statement containing the necessary particulars for the preparation of the warrant is also enclosed.

I have the honor to be,

Sir,

Your most obedient servant,

23-7-03

~~General~~ Secretary.

Typed. 7 2303

*Application for a Warrant under Act XXI of 1879, the Foreign Jurisdiction and Extradition Act.*

Cr. No. 46

1. Officer to whom the warrant should be issued, — District Magistrate of Dharwar.

2. Magistrate of the District who wants the warrant issued. — District Magistrate of Chitaldrug.

3. Name and description of accused person. — Rachappa residing in Sankhipur Sirahatti Taluk of the Sanglí State.

4. Where or under whose custody the accused person is supposed to be. — The accused who was arrested by the police of the Sirahatti Taluk is said to have been released on bail.

5. Name of the offence committed, and section of the Indian Penal Code under which the accused is charged. — Theft or receiving or retaining stolen property punishable under Section 380 or 411 of the Indian Penal Code.

6. Officer to whom the accused should be surrendered. — Police Inspector at Harihar

7. Place at which the accused should be delivered. — Harihar.

8. Whether the accused is a British subject, a subject of Mysore, or to which State he belongs. — A subject of the Sanglí State.

OFFIE OF THE DEWAN OF MYSORE.

*Bangalore,* 189 .

*Under-Secretary.*

Central Jail Press, Bangalore.—23-8-98.—502.

/3547

1902-3

SECTION Cecret

From

CASE No. 12 of 02

THE FIRST ASSISTANT TO THE HONBLE THE RESIDENT IN MYSORE.

No. 1

To

Pol. 317

THE DEWAN OF MYSORE.

Dated 28. 8. 03

Despatched

Received

General No. 4084

No.

Enclosure No. 1 & 2

Regarding the extradition demanded of one Rachappa a Subjeel of the Sangli State

References to be marked.

MGCPB—1,000—5-6-03

Enclosure 8 in 97

Letter No. 807, dated 7th August 1903, from the Administrator of Sangli.

---

"In compliance with your No. 2996 of the 1st Instant (returned herewith together with all the enclosures) calling for my remarks in regard to the extradition demanded by the British Resident of Mysore, of one Rachappa, a subject of the Sangli State, for the alleged offence of theft or retaining or receiving stolen property in Mysore Territory, I have the honour to state as follows:-

2. At the outset, I must observe that the evidence in the case, if believed, would not go beyond proving that the bullocks belonged to the complainant Yelladappa of Jallikatti, that they were stolen away by an unknown person on the 24th of June 1902 from his village and that they were found in the possession of the accused at Shirhatti on or about the 9th of May 1903. There is no direct evidence of the theft of the bullocks in Mysore territory by Rachappa the accused nor of their retention or receipt by him within that jurisdiction. All that can be said is that the fact of the possession of the bullocks by the accused Rachappa is presumtive proof of his guilt. The force of the presumption, however, is materially weakened in this case by the surrounding circumstances. There is first the length of time i.e. ten months and a half - which has elapsed between the loss of

the

the bullocks and their discovery in the possession of the accused and then the distance between the two places is such as to make the commission of theft of animals not an easy matter. Besides, in order to raise a legitimate presumption of guilt in such cases, the possession must be recent. It may be that the stolen property may have changed hands and the accused may be the last receipient of it. The question what is recent possession is decided by the Calcutta and Bombay High Courts. In the case of Regina vs Cooper, an English case referred to at page 164 of the I.L.R. , 11 Calcutta, it is said "where a man is found in possession, of a horse six or seven months after it is lost and there is no evidence against the man but that of possession, he ought not to be called to account for it. Vide also Inashekh vs Queen Empress I.L.R., 11 Calcutta page 160 and Empress vs Malhari I.L.R. 6 Bombay page 731. The stolen articles in this case are not of unique or unusual character but such as are possessed by every agriculturist in this part of the Country and would pass readily from hand to hand in a very short time. In the words of the High Court Ruling, therefore, this is not a case of such recent possession and to me it seems that a possession ten months and a half after the theft, by itself, affords so slight a presumption against the accused that taken by itself he ought not to be called upon to explain how his possession was acquired.

3. In this case there is no evidence of theft committed within the jurisdiction of the Mysore State nor of receiving or retaining the stolen

The Mysore Resident's Office,

No. 4084

Bangalore, 28 August 1903.

Copy of the foregoing is forwarded to the Dewan of Mysore with reference to Mr. Nanjundayya's letter No. 215/J.F.24; 03 dated the 24th July 1903.

2. The original records of the case are returned.

First Assistant Resident.

12

Correct No 5822 Here enter 8/9/03.

120-03 (Letter No 807 dated 7th August 1903 from the Administrator D. Sanglí and Endorsement of the Political Agent, Kolhapur No 3210 of 1903 dated 14th August 1903)

S/Branch

Please submit this to Mr Chandrasekhara Aiyar who has returned from leave. He may perhaps have some remarks to make.

4/9/03

I agree & the draft. The views expressed by the Administrator of the Sangli State are reasonable from his point of view: and there is no help but to acquiesce in his refusal to surrender

4.9.03

A copy of the foregoing is forwarded to the Dy Magte, Chittaldrug for information with reference to his letter No 48 dated 21st July 1903.

2. The original record of the case are returned.

By order

9/7/3

Secretary

Vide Mag[illegible]

4/11/03